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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91168399
Party	Defendant Oriental Trading Company, Inc. Oriental Trading Company, Inc. 4206 South 108th Street Omaha, NE 68137
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Date	02/10/2006
Attachments	BDV - TTAB Opposition 91168399.pdf (6 pages)

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 76/586885
Filed April 15, 2004
For the Mark: Hands On Fun! And Design
Published in the Official Gazette of November 1, 2005

FIBRE-CRAFT MATERIALS CORPORATION

Opposers,

v.

ORIENTAL TRADING COMPANY, INC.

Applicant,

Opposition No. 91168399

ANSWER TO NOTICE OF OPPOSITION

Applicant Oriental Trading Company, Inc., a Delaware corporation, hereby answers each and every allegation of the Notice of Opposition in the above titled proceeding.

1. In answering the Preface of the Notice of Opposition, Applicant denies any and all allegations and inferences that Opposer would be damaged by registration of Applicant's mark, but admits that Applicant's application was filed and published in the *Official Gazette* as alleged. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations relating to the Opposer and therefore must deny the allegations.

2. Applicant acknowledges that copies of registration certificates referenced in Paragraph 1 are attached to the Notice of Opposition and that they purport to show the

existence of federal trademark registrations. In all other respects Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 and therefore must deny the allegations.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of the Notice of Opposition and therefore must deny the allegations.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 of the Notice of Opposition and therefore must deny the allegations.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 of the Notice of Opposition and therefore must deny the allegations.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 of the Notice of Opposition and therefore must deny the allegations.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 of the Notice of Opposition and therefore must deny the allegations.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7 of the Notice of Opposition and therefore must deny the allegations.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8 of the Notice of Opposition and therefore must deny the allegations.

10. Applicant admits that Application Serial No. 76/586885 referred to in Paragraph 9 was approved by the Trademark Office and is for registration of the HANDS ON FUN! trademark/logo, which includes a hand design previously registered as Registration No. 3,047,593 for the same variety of goods and services in classes 15, 16, 28 and 35 as in the application.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10 of the Notice of Opposition and therefore must deny the allegations. Applicant specifically denies that Applicant's use of the HANDS ON FUN! mark/logo on the goods and in connection with the services recited in the application will be likely to cause confusion, mistake, or deception in the minds of the purchasing public.

12. Applicant generally and specifically denies the allegations of Opposer set forth in Paragraph 11 of the Notice of Opposition. Further answering, Applicant states that its HANDS ON FUN! mark/logo is distinctive and sufficiently different from the marks of the Opposer that it is not even remotely likely to cause confusion, mistake, or deception in the minds of the purchasing public.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12 of the Notice of Opposition and therefore must deny the allegations.

14. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 13 of the Notice of Opposition and therefore must deny the allegations.

15. Applicant generally and specifically denies the allegations of Opposer set forth in Paragraph 14 of the Notice of Opposition.

16. Applicant generally and specifically denies the allegations of Opposer set forth in Paragraph 15 of the Notice of Opposition. Further Answering, Applicant states that the allegations in Paragraph 15 that Applicant's registration "will presumptively confer upon Applicant *prima facie* exclusive ownership rights to the same products in the same filed (sic) to which Opposer as (sic) long since been engaged . . ." is entirely baseless, illogical and false and is without any foundation in law or fact.

17. Applicant generally and specifically denies the allegations of Opposer set forth in Paragraph 16 of the Notice of Opposition.

18. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 17 of the Notice of Opposition and therefore must deny the allegations.

19. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 18 of the Notice of Opposition and therefore must deny the allegations.

AFFIRMATIVE DEFENSES

Furthermore, Applicant sets forth the following in support of its defense.

20. Applicant alleges that the Notice of Opposition fails to state a claim upon which relief may be granted.

21. In light of the many federal trademark registrations for marks which contain the word "hands" for goods similar to those listed in Opposer's registrations referenced in the Notice of Opposition, Applicant's HANDS ON FUN! mark/logo is not likely to cause confusion with Opposer's "CREATIVE HANDS" mark or to lead to confusion, deception or mistake as to the origin of the Applicant's goods and services.

22. In light of the many federal trademark registrations for marks which contain the word "fun" for goods similar to those listed in Opposer's registrations referenced in the Notice of Opposition, Applicant's HANDS ON FUN! mark/logo is not likely to cause confusion with Opposer's "DO FUN!" mark or to lead to confusion, deception or mistake as to the origin of the Applicant's goods and services.

23. Applicant's HANDS ON FUN! mark/logo differs from Opposer's CREATIVE HANDS marks in sound, appearance, spelling and meaning, and has a very different commercial impression.

24. Applicant's HANDS ON FUN! mark/logo differs from Opposer's DO FUN! mark in sound, appearance, spelling and meaning, and has a very different commercial impression.

25. Upon information and belief, there have been no instances of actual confusion between Applicant's mark and Opposer's CREATIVE HANDS marks.

26. Upon information and belief, there have been no instances of actual confusion between Applicant's mark and Opposer's DO FUN! marks.

27. The word "hands" in the Opposer's mark "CREATIVE HANDS" is an exceedingly commonplace and weak term in the respective composite marks for the various types of goods to which Opposer's registration pertains.

28. The word "fun" in the Opposer's mark "DO FUN!" is an exceedingly commonplace and weak term in the respective composite marks for the various types of goods to which Opposer's registration pertains.

29. The Trademark Examining Attorney was right in ignoring Opposer's pleaded registrations in making his examination of the application for registration of Applicant's HANDS ON FUN! mark/logo and was correct in ruling in the office action on the merits that a search of "the Office records has found no similar registered or pending mark which would bar registration under the Trademark Act Section 2(d), 15 U.S.C. Section 1052(d)."

30. Applicant expressly reserves the right to amend and/or add additional affirmative defenses as discovery and investigation in this matter continues.

WHEREFORE, the Applicant, Oriental Trading Company, Inc., prays that the Notice of Opposition to registration of its mark be dismissed, and such other further relief be granted as the Trademark Trial and Appeal Board may deem proper.

DATED: February 10, 2006.

Respectfully Submitted,
ORIENTAL TRADING COMPANY, INC., Applicant

By: _____

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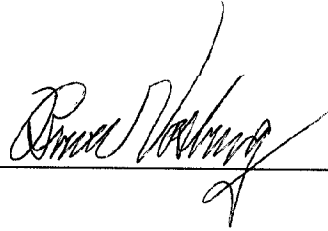
Attorneys for Applicant,

Oriental Trading Company, Inc.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Answer to Notice of Opposition was sent by regular United States Mail, postage prepaid this 10th day of February, 2006, to:

Angelo J. Bufalino
Vedder Price Kaufman & Kammholz
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A handwritten signature in cursive script, appearing to read "Paul V. Vining", is written over a horizontal line.